



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

[REDACTED]
Docket No: 5197-22
Ref: Signature Date

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW NAVAL RECORD OF FORMER MEMBER [REDACTED], USN,
[REDACTED]

Ref: (a) 10 U.S.C. 1552
(b) 10 U.S.C. 654 (Repeal)
(c) UNSECDEF Memo of 20 Sep 11 (Correction of Military Record following Repeal of U.S.C. 654)

Encl: (1) DD Form 149 with attachments
(2) Case summary

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting that his naval record be corrected to make certain conforming changes to his DD Form 214 to reflect current military directives and policy.

2. The Board, consisting of [REDACTED], and [REDACTED] reviewed Petitioner's allegations of error and injustice on 23 September 2022, and, pursuant to its regulations, determined that the corrective action indicated below should be taken. Documentary material considered by the Board consisted of Petitioner's application together with all material submitted in support thereof, relevant portions of Petitioner's naval record, and applicable statutes, regulations, and policies, to include references (b) and (c).

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Although enclosure (1) was not filed in a timely manner, it is in the interest of justice to waive the statute of limitations and review the application on its merits.

c. Petitioner began a period of active duty on 1 November 1990. Petitioner's enlistment physical examination, on 12 April 1990, and self-reported medical history, as well as Petitioner's submarine duty physical examination, on 12 November 1990, and self-reported medical history both noted no neurologic or psychiatric conditions, treatment, symptoms, or issues, respectively.

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d. On 22 September 1992 Petitioner's command notified him of administrative separation proceedings by reason of homosexuality as evidenced by his statement that he was homosexual, or words to that effect. The Petitioner did not object to his separation and waived his rights to consult with counsel, submit a statement to the separation authority, and to present his case to an administrative separation board. In the interim, Petitioner's separation physical examination, on 25 September 1992, and self-reported medical history noted no neurologic or psychiatric conditions, treatment, symptoms, or issues. Ultimately, Petitioner was separated from the Navy for homosexuality with an Honorable characterization of service on 16 October 1992.

e. References (b) and (c) set forth the Department of the Navy's current policies, standards, and procedures for correction of military records following the "don't ask, don't tell" (DADT) repeal of 10 U.S.C. 654. It provides service Discharge Review Boards with the guidance to normally grant requests to change the narrative reason for discharge to "Secretarial Authority," separation code to "JFF," and reentry code to "RE-1J" when the original discharge was based solely on DADT or a similar policy in place prior to enactment of it and there are no aggravating factors in the record, such as misconduct.

CONCLUSION:

Upon review and consideration of all the evidence of record, and in light of references (b) and (c), the Board concludes that Petitioner's request warrants relief. The Board noted Petitioner's record supports that he was administratively discharged due to his homosexuality based on DADT, and that there were no aggravating factors in his service record.

Accordingly, the Board concluded that certain remedial changes were warranted to the Petitioner's narrative reason for separation, separation authority, separation code, and reentry code to conform with all current military directives and policy.

Notwithstanding the corrective action taken below, the Board noted that it was not within the Board's purview to preclude any notations or references, if any, on the reissued DD Form 214 that such DD Form 214 was corrected. The Board noted that any such references on a reissued DD Form 214, if any, do not result in an injustice or attach any adverse inference or stigma, and are purely routine and administrative in nature.

RECOMMENDATION:

In view of the foregoing, the Board finds the existence of an injustice warranting the following corrective action.

That Petitioner's narrative reason for separation should be changed to "Secretarial Authority," the separation authority be changed to "MILPERSMAN 1910-164," the separation code be changed to "JFF," and the reentry code be changed to "RE-1J."

Petitioner shall be issued a new DD Form 214, Certificate of Release or Discharge from Active Duty.

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X [REDACTED]

That any and all previously existing DD Form 214, and DD Form 215, as applicable, be removed from Petitioner's naval record.

That a copy of this report of proceedings be filed in Petitioner's naval record.

4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above-entitled matter.

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulation, Section 723.6(e)), and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

9/28/2022

[REDACTED]
Executive Director
[REDACTED]